

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROSENFELD & COMPANY, PLLC,

Case No.: 1:21-cv-3858 (JLR) (KHP)

Plaintiff,

-against-

TRACHTENBERG, RODES & FRIEDBERG LLP,
STAR AUTO SALES OF BAYSIDE, INC. (d/b/a STAR
TOYOTA OF BAYSIDE), STAR AUTO SALES OF
QUEENS, LLC (d/b/a STAR SUBARU), STAR
HYUNDAI LLC (d/b/a STAR HYUNDAI), STAR
NISSAN, INC (d/b/a STAR NISSAN), METRO
CHRYSLER PLYMOUTH INC. (d/b/a STAR
CHRYSLER JEEP DODGE), STAR AUTO SALES OF
QUEENS COUNTY LLC (d/b/a STAR FIAT), and
STAR AUTO SALES OF QUEENS VILLAGE LLC
(d/b/a STAR MITSUBISHI),

Defendants.

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STAR AUTO SALES OF BAYSIDE, INC. (d/b/a STAR
TOYOTA OF BAYSIDE), STAR AUTO SALES OF
QUEENS, LLC (d/b/a STAR SUBARU), STAR
HYUNDAI LLC (d/b/a STAR HYUNDAI), STAR
NISSAN, INC (d/b/a STAR NISSAN), METRO
CHRYSLER PLYMOUTH INC. (d/b/a STAR
CHRYSLER JEEP DODGE), STAR AUTO SALES OF
QUEENS COUNTY LLC (d/b/a STAR FIAT), and
STAR AUTO SALES OF QUEENS VILLAGE LLC
(d/b/a STAR MITSUBISHI),

Defendants-Counterclaimants,

-against-

ROSENFELD & COMPANY, PLLC,

Plaintiff-Counterclaim-Defendant.

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STAR AUTO SALES OF BAYSIDE, INC. (d/b/a STAR
TOYOTA OF BAYSIDE), STAR AUTO SALES OF
QUEENS, LLC (d/b/a STAR SUBARU), STAR
HYUNDAI LLC (d/b/a STAR HYUNDAI), STAR
NISSAN, INC (d/b/a STAR NISSAN), METRO

CHRYSLER PLYMOUTH INC. (d/b/a STAR CHRYSLER JEEP DODGE), STAR AUTO SALES OF QUEENS COUNTY LLC (d/b/a STAR FIAT), and STAR AUTO SALES OF QUEENS VILLAGE LLC (d/b/a STAR MITSUBISHI),

Defendants-Cross-claimants,

-against-

TRACHTENBERG, RODES & FRIEDBERG LLP,

Defendant-Cross-claim-Defendants.

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STAR AUTO SALES OF BAYSIDE, INC. (d/b/a STAR TOYOTA OF BAYSIDE), STAR AUTO SALES OF QUEENS, LLC (d/b/a STAR SUBARU), STAR HYUNDAI LLC (d/b/a STAR HYUNDAI), STAR NISSAN, INC (d/b/a STAR NISSAN), METRO CHRYSLER PLYMOUTH INC. (d/b/a STAR CHRYSLER JEEP DODGE), STAR AUTO SALES OF QUEENS COUNTY LLC (d/b/a STAR FIAT), and STAR AUTO SALES OF QUEENS VILLAGE LLC (d/b/a STAR MITSUBISHI),

Third-Party Plaintiffs,

-against-

BARRY J. FRIEDBERG and LEONARD A. RODES,

Third-Party Defendants.

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DECLARATION OF JAMIE S. FELSEN, ESQ.

I, Jamie S. Felsen, pursuant to 28 U.S.C. § 1746, states the following:

1. I am a member of Milman Labuda Law Group PLLC, counsel for the various Star entities that comprise the Defendants-Third-Party Plaintiffs (“Star”).

2. I submit this declaration in opposition to Trachtenberg, Rodes & Friedberg LLC's, Barry J. Friedberg's, and Leonard A. Rodes' ("TRF Defendants") motion to dismiss Star's cross-claims and third-party claims.

3. After this action was commenced against Star and TRF by Rosenfield & Company, PLLC, Star asserted cross-claims and third-party claims against TRF Defendants.

4. On November 17, 2021, TRF Defendants notified Star of purported deficiencies in Star's cross-claims and third-party claims as required by Judge Marrero's individual rules.

5. On December 15, 2021, Star provided TRF Defendants with proposed amendments to its pleadings in accordance with Judge Marrero's individual rules.

6. TRF Defendants informed Star that they were not satisfied with the sufficiency of the proposed amendments.

7. On June 14, 2022, Judge Marrero provided TRF Defendants permission to file their motion to dismiss.

8. On July 18, 2022, TRF Defendants filed their motion to dismiss without taking into account any of Star's proposed amendments.

9. On August 4, 2022, Star amended its cross-claims and third-party claims to allege claims for (1) contribution and/or indemnification against TRF Defendants; (2) breach of contract against TRF and Friedberg concerning the 2017 TRF Retainer Agreement for overbilling and violating the implied promise of due care for poor performance under the contract; (3) fraudulent misrepresentation against TRF and Friedberg; and (4) disgorgement of legal fees against TRF Defendants.

10. On August 15, 2022, Judge Marrero ordered that TRF Defendants refile their motion to dismiss as Star's amended cross-claims and third-party claims rendered the motion to dismiss filed on July 18, 2022 as moot.

11. On October 14, 2022, TRF Defendants filed this motion.

I declare under penalty of perjury that the foregoing is true and correct

Dated: Lake Success, New York
November 28, 2022

/s/ Jamie S. Felsen